

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.189/95
M.A.No.209/95

New Delhi this the 1st Day of May, 1995.

Hon'ble Mr. J.P. Sharma, Member(J)
Hon'ble Mr. B.K. Singh, Member(A)

Sh. Ajay Kumar,
S/o late Sh. Brahm Dutt,
R/o F-141, Lado Sarai,
P.O. Mehrauli,
New Delhi-110030.

Petitioner

(through Sh. TVS Krishna Sastry, advocate)

versus

1. The Joint Secretary (A),
D.H.Q.P.O.,
Ministry of Defence,
C-2 Hutmants, Dalhousie Road,
New Delhi-11.

2. The Union of India,
through its Secretary,
Ministry of Defence,
South Block, New Delhi. Respondents

(Sh. M.S. Ramalongam, departmental representative
on behalf of the respondents)

ORDER(ORAL)

delivered by Hon'ble Mr. J.P. Sharma, Member(J)

Aggrieved by not favoured a
compassionate appointment by the respondents, the
applicant son of the deceased employee(Sh. Brahm
Dutt) who last served with the respondents as Junior
Gestetner Operator, filed this application in
January, 1995 alongwith the misc. application for
condonation of delay.

We have seen the misc. application for
condonation of delay supported by an affidavit. The
respondents have filed their reply opposing the
condonation of delay taking specific grounds that
the applicant has no reasonable cause for getting
the benefit under Section 21 sub-clause (3) of the

Administrative Tribunals Act, 1985. The applicant should have filed the application within one year from the date of the order i.e. by 10.8.1993 but he has come quite late in January, 1995. The ground taken in the misc. application for condonation of delay is that believing on the assurance by the Department, the application could not be filed in time. In any case, we condone the delay and allow this M.A.

On merits the learned counsel for the applicants contended that the family is in an indigent circumstance after the death of the sole earner Sh. Brahm Dutt on 05.02.92. The said Brahm Dutt was survived by the widow, one married elder son who runs a small business earning an amount of Rs.3000/- P.M. and applicant No.2 who is metric aged about 32 years who seeks help in appointment on compassionate ground. Besides the two sons there are three married daughters of the deceased. It is contended by the learned counsel and also averred in the O.A. that the elder brother Sh. Vijay Kumar is unemployed and he only distributes the newspapers and is living separately. The respondents have considered this matter though in the impugned order dt. 10.08.92, no specific reasons have been given, but in the reply filed to the original application by the respondents, the respondents have given detailed reasons as to how the application for help in compassionate appointment of the applicant was considered and ultimately rejected by a Board.

(A)

The contention of the respondents is that the applicant has earlier concealed the engagement of Sh. Vijay Kumar which could only be found on an enquiry conducted from the local police. It is further stated that the family owns a property in shape of residential house located in Lado Sarai which is near Qutab Minar in Delhi itself. It is further stated that the deceased left only two months to attain the age of superannuation which in the case of the deceased employee was 60 years and that the terminal benefits amounting to Rs. 68,069/- were paid to the family of the deceased. Besides, the widow of the deceased is getting Rs.535/- as family pension which may be reduced after 7 years. However, the interim relief and other benefits as per Government instructions would be paid on the sanctioned family pension.

The law for giving compassionate appointment has been clearly laid down by the Hon'ble Supreme Court in case of Life Insurance Corporation of India Vs. Mrs. Asha Ramchandra Ambedkar & Anr. reported in JT 1994(2) page 183. In that case the Hon'ble Supreme Court has considered the matter as to whether the Tribunal can issue direction on compassionate appointment and it was held that the Tribunal can direct only consideration and no direction in any case can be issued. The same view has been reiterated by the Hon'ble Supreme Court in case of Umesh Kumar Nagpal Vs. State of Haryana & Ors. reported in JT 1994(3)SC 525.

Ji

(5)

We have considered the law on the point and status of the family of the deceased. A welfare scheme was introduced by the Government of giving appointment to one of the ward of an employee who dies in harness so that after his death the family of the deceased employee may not starve. The respondents have considered all the aspects and found that the family owns its own property and that ~~both~~ one of the sons is already employed. It is also stated by the respondents that the applicant has also obtained a certificate of motor mechanic and that he was stated to have been working in a motor garage. However, the applicant having been 32 years and that the deceased employee had only two months to retire, we cannot find that the conclusion drawn by the respondents on the basis of the assets left by the deceased can be interfered with. It cannot be said that the family needs immediate rehabilitation.

We, therefore, find this application which has been decided on merit after condoning the delay in filing the application, has no basis for interference in the impugned order. Accordingly, the application is dismissed, leaving the parties to bear their own costs.


(B.K. Singh)

Member (A)


(J.P. Sharma)

Member (J)

/vv/